

# **Border Security Force Extension in Punjab**

## Why in news?

The Supreme Court is set to hear the dispute over the expansion of the Border Security Force (BSF) jurisdiction in Punjab.

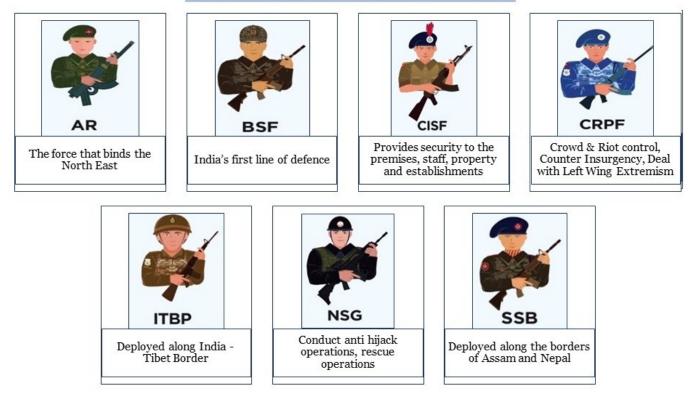
## What is Border Security Force?

- Origin- Formed based on the recommendations of the <u>Committee of Secretaries</u> in the wake of the 1965 Indo Pakistan War.
- Came into existence on 1<sup>st</sup> December 1965.
- Mandate- To guard the *Indo-Pakistan* and *Indo-Bangladesh* border.

Shri K F Rustamji was the first chief and the founding father of BSF.

- **Features** It is the *world's largest border guarding force* securing the 6,386.36 km long International Border with Pakistan and Bangladesh.
- It is the only force of the nation with a distinctly defined *war-time as well as peacetime role.*
- BSF has been termed as the *First Line of Defence of Indian Territories.*
- It is one of the Central Armed Police Forces of the Union of India.

## Central Armed Police Forces (CAPF)



- Administrative control- Ministry of Home Affairs.
- Legal framework- It is governed under Border Security Force Act, 1968
- **Powers** BSF is empowered to <u>arrest, search and seize</u> under Criminal Procedure Code, the Passports Act, the Passport (Entry into India) Act etc.
- BSF Act allows the *Central government* through an order to designate an area "within the local limits of such area adjoining the borders of India" where members of the BSF can exercise powers.

Role	Location	
Anti-Infiltration role	Kashmir Valley	
Counter Insurgency Operations	North East India	
Anti Naxal Operations	Odisha and Chhattisgarh	
Integrated Check Posts	Along India and Bangladesh International Borders	

#### What is the issue?

- **The issue** In 2021, Ministry of Home Affairs issued a notification <u>expanding the</u> jurisdiction of the BSF in *Punjab, West Bengal and Assam*.
  - Prior to 2021 notification BSF could exercise its powers <u>within 15</u> <u>kilometres</u> of the border in Punjab, West Bengal and Assam.
  - After 2021 notification Within <u>50-kilometre</u> jurisdiction, the BSF can exercise powers under the Criminal Procedure Code, the Passport (Entry into India) Act and the Passports Act. For other central legislations, the 15-km limit remains.
- Need for the expansion of BSF's jurisdiction

- $\circ\,$  To check the increased use of drones and Unmanned Aerial Vehicles
- $\circ$  To enable surveillance and the smuggling of arms and fake currency
- $\circ\,$  To conduct more search and seizures of cattle smuggling activity and to prevent the smugglers from taking refuge in the interior areas of the country
- $\circ\,$  To make the BSF's jurisdiction uniform across states, as the 50-kilometre limit was already in place in Rajasthan.

### Why has Punjab challenged this?

- Punjab filed an 'original suit' against the central government in the Supreme Court in 2021.
- The Supreme Court (SC) has '*original jurisdiction'* in disputes between the Central government and States under <u>Article 131</u> of the Constitution.

Key aspect	Punjab stand	Centre's stand
Impact on Federal Structure	<ul> <li>The Centre's move would compromise the State's exclusive powers to legislate on matters involving the <i>police and public order</i> provided in the State List under <i>Article 246</i>.</li> <li>The notification was issued without consulting with any of the states concerned.</li> </ul>	<ul> <li>It argues that this is an issue of the defence of India, armed forces, and the deployment of armed forces.</li> <li>They all are a part of the Union List.</li> </ul>
Distance of application	<ul> <li>A large number of cities and towns would fall within this 50- kilometre jurisdiction.</li> <li>Given its small size, the 50 km radius will be a clear encroachment of state powers extending even to the capital.</li> </ul>	<ul> <li>In Gujarat, the government had reduced the area under the BSF to <u>50km from 80 km.</u></li> <li>The Centre argues that to prevent trans-border crimes, it is necessary that the BSF get such powers in interior areas.</li> </ul>

**The** 7<sup>th</sup> **Schedule of the Constitution** divides the legislative power between the Centre and the States.

#### What are the issues that the Supreme Court will consider?

- Supreme Court will decide on the issue
  - Whether the notification extending the BSF area of control to 50 km is an 'arbitrary' and 'unconstitutional' exercise of power of the central government?
  - $\circ\,$  Whether it is 'beyond the local limits' of the border area, as provided under the BSF Act?
  - $\circ\,$  What are the factors that are required to be considered for such extension of boundaries?
  - $\circ\,$  Whether all states should be treated alike to decide on extensions?
  - $\circ\,$  Whether the notification can be challenged under Article 131?

#### References

- 1. Indian Express- Expansion of BSF jurisdiction
- 2. The Hindu- Limits and borders of BSF
- 3. The Print- Punjab plea and Centre's counter





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